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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,181	05/23/2001	William A. Cox	CWL-101-A	9646

7590 12/17/2003
Andrew R. Baslie
Young & Baslie, P.C.
Suite 624
3001 West Big Beaver Road
Troy, MI 48084

EXAMINER

PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 12/17/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,181

Applicant(s)

COX, WILLIAM A.

Examiner

Kenneth E Peterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-17,36-40 and 46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-17,36-40 and 46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Claims 5,9 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On line 2 of claim 5 is the term "an alignment surface". This term cannot be found in the specification and it is not clear what is being referred to.

Claim 9 claims that the modular die supports have longitudinally spaced bearing assemblies. However, parent claim one recites *at least* one first modular die support. The use of the term "at least" infers that plural first modular die supports are disclosed. Indeed, there are plural separate die supports (42) as seen in figure 1. No *single* die support has "longitudinally spaced bearing assemblies". Since claim 9 conflicts with parent claim 1, it is not clear how it should be interpreted.

Claim 11 recites a spacer. However, parent claims recites that the first modular die support is attached *directly* to the base, which precludes the embodiment of figure 7, which in turn precludes claiming spacers. Since it is not clear how a spacer would fit in the other embodiments, claim 11 cannot be addressed by the prior art.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,3,8,9,13,16,17,36 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Gautier, who shows a rotary die apparatus having all of the recited

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limitations including 4 columns (31), a base (12), a cap, a cross member (15), a first die support module having spaced bearings (13) fixed directly to the base (12A), a second die support module having spaced bearings (16), and a pressure device (21,22).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,3-6,8,9,10,13-17,36 and 46 rejected under 35 U.S.C. 103(a) as being unpatentable over Gautier in view of Bell.

Gautier, as set forth above, shows a rotary die apparatus having all of the recited limitations except for a radial flange on the lower rotary die. Note that Gautier does show a radial flange on the upper rotary die.

Bell shows that it is well known for both the upper and lower rotary dies to have peripheral, contacting flanges (26,28). This is an equivalent arrangement to the single flange arrangement found in Gautier. It would have been obvious to one of ordinary skill in the art to have modified Gautier by making both of the rotary dies have peripheral flanges contacting one another, since Bell has shown this to be an art recognized equivalent. See MPEP 2144.06.

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6. Claims 1,3,7,8,9,13,16,17,36,40 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gautier in view of the Bernal rotary die module (reference AS from the 23 May 01 I.D.S.).

Gautier, as set forth above, shows a rotary die apparatus having all of the recited limitations except for there is just one cross member instead of two.

Bernal shows that it is well known for the cross member to comprise two separate pieces, each piece engaging two rods. This is an equivalent arrangement to the single cross member arrangement found in Gautier. It would have been obvious to one of ordinary skill in the art to have modified Gautier by making the cross member in a first and second piece, since Bell has shown this to be an art recognized equivalent.

7. Claims 1,3,8,9,13,16,17,36-39 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gautier in view of the Okuda et al.

Gautier's rotary die apparatus has columns that are non-cylindrical. However, Okuda shows that it is well known for rotary dies (8a and 8b) to be vertically adjustable on columns that are cylindrical and of uniform cross-section (13). It would have been obvious to one of ordinary skill in the art for Gautier to have employed cylindrical columns, as taught by Okuda, since they are art recognized equivalents.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gautier in view of Bell, as set forth above, and further in view of Okuda et al.

Gautier's rotary die apparatus, as modified, has columns that are non-cylindrical.

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However, Okuda shows that it is well known for rotary dies (8a and 8b) to be vertically adjustable on columns that are cylindrical and of uniform cross-section (13). It would have been obvious to one of ordinary skill in the art for Gautier to have employed cylindrical columns, as taught by Okuda, since they are art recognized equivalents.

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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11. Made of record but not relied on are patents to Belongia and Roseman showing bases with bearings attached directly thereto.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson at 703-308-2186, who can normally be reached on Monday thru Thursday between 7am and 4pm. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp
December 10, 2003



KENNETH E. PETERSON
PRIMARY EXAMINER